



# OHIO STATE BOARD OF PHARMACY

65 S. Front Street, Room 504  
Columbus, Ohio 43266-0320  
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY  
(Docket No. D-870917-015)

In The Matter Of:

GARY RAYMOND SMITH, R.Ph.  
754 Annapolis  
Akron, Ohio 44310

## INTRODUCTION

THE MATTER OF GARY RAYMOND SMITH CAME TO HEARING ON DECEMBER 1, 1987 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: NORMAN LEIBOW, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; JEROME WIESENHAHN, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

GARY RAYMOND SMITH WAS REPRESENTED BY ROBERT N. BURMAN, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

## SUMMARY OF EVIDENCE

### State's Exhibits

- (1) Exhibit #A - Notice of Opportunity dated September 17, 1987 in the matter of Gary R. Smith.
- (2) Exhibit #B - Letter dated October 5, 1987 requesting a hearing.
- (3) Exhibit #C - Letter dated October 12, 1987 scheduling hearing.
- (4) Exhibit #D - Computer printout showing Gary R. Smith's license lapsed 09/15/81.
- (5) Exhibit #E - Application for registration as pharmacist for 1979.
- (6) Exhibit #F - Prescriptions filled by Gary R. Smith during lapsed dates of his licensure.
- (7) Exhibit #G - Statement dated 07/21/87 by Gary Smith.

### Respondent's Exhibits

- (1) Exhibit #A - Copies of Continuing Education programs.
- (2) Exhibit #B - Transcript from University of Toledo in the matter of Gary Smith.
- (3) Exhibit #C - Affidavit of Albert Weinstein dated November 25, 1987.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1986, as required by Section 4729.12 of the Ohio Revised Code, for the 1986-1987 licensure year.
- (2) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1985, as required by Section 4729.12 of the Ohio Revised Code, for the 1985-1986 licensure year.
- (3) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1984, as required by Section 4729.12 of the Ohio Revised Code, for the 1984-1985 licensure year.
- (4) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1983, as required by Section 4729.12 of the Ohio Revised Code, for the 1983-1984 licensure year.
- (5) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1982, as required by Section 4729.12 of the Ohio Revised Code, for the 1982-1983 licensure year.
- (6) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1981, as required by Section 4729.12 of the Ohio Revised Code, for the 1981-1982 licensure year.
- (7) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith failed to renew his identification card on September 15, 1979, as required by Section 4729.12 of the Ohio Revised Code, for the 1979-1980 licensure year, when Mr. Smith did not renew until December 7, 1979.
- (8) From the evidence presented, the State Board of Pharmacy finds that Gary Raymond Smith did dispense and sell dangerous drugs while not being a registered pharmacist during the lapsed dates of his pharmacist license, in violation of the provisions of Section 4729.28 of the Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (7) of the Findings Of Fact constitutes willful violations of the provisions of Section 4729.12 of the Ohio Revised Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (8) of the Findings Of Fact constitutes willful violations of the provisions of Section 4729.28 of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-2-11374, held by Gary Raymond Smith:

(A) On the basis of paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand one hundred dollars (\$2,100.00), due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43266-0320, with the enclosed form.

(B) Further, the Board approves the examination application of Gary Raymond Smith to take the Licensure Examination in June of 1988.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL  
Return Receipt

ORDER ISSUED: January 29, 1988

FZW/sb

By Franklin Z. Wickham  
Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General  
Robert N. Burman, Attorney For Respondent